



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

July 8, 1955

JOHN BEN SHEPPERD  
ATTORNEY GENERAL

Honorable Tom Sealy  
Chairman, Board of Regents  
The University of Texas  
Austin, Texas

Letter Opinion No. MS-228

Dear Mr. Sealy:

Re: Payment of Federal Documentary Stamp Taxes by the University of Texas in certain instances.

You request the opinion of this office upon the above captioned matter.

The last paragraph of the letter from the United States Treasury Department to the University of Texas, dated May 13, 1955, and received by the University May 16, 1955, is as follows:

"In view of the foregoing, the conveyances by the University are subject to the deed tax imposed by section 3482 of the Code and documentary stamps should therefore be affixed to the deeds and properly cancelled. Applying the presumption that the conveyances were made by the University in the exercise of an essential governmental function, the University is exempt from the payment of the tax. However, the tax is payable by the grantee, the non-exempt parties to the conveyances."

Assuming (as we think is correct) that the University, in making the sales involved, is exercising an essential governmental function, under the above ruling of the United States Treasury Department the University is exempt from the payment of the stamp tax imposed by Section 3482 of Title 26, U.S.C.A. (Internal Revenue Code). However, it does not follow that the University may not by contract assume payment of the tax, if the agreement to pay the taxes was a part of the consideration and was otherwise valid.

The Board of Regents of the University of Texas is vested with broad powers in dealing with property conveyed to the University and held in trust, as is the case here. We are of the opinion that the Board of Regents is vested with authority in making the sale of such property to contract with the grantee as part of the consideration for which the

Honorable Tom Sealy, page 2 (MS-228)

property is sold, to assume and pay for the revenue stamps which otherwise the grantee is required to pay.

Yours very truly,

JOHN BEN SHEPPERD  
Attorney General

APPROVED:

William W. Guild  
Reviewer

Bennell Waldrep  
Reviewer

Robert S. Trotti  
First Assistant

John Ben Shepperd  
Attorney General

By  
L . P. Lollar  
Assistant

LPL:rn:egw